

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

HOUSE COMMITTEE ON HUMAN RESOURCES

February 15, 1991Hearing Room D 1:30 p.m.Tapes 34 - 38

MEMBERS PRESENT:Rep. Mary Alice Ford, Chair Rep. Beverly Stein, Vice-Chair Rep. Jerry Barnes Rep. Cedric Hayden Rep. John Meek Rep. Hedy Rijken Rep. Jackie Taylor

STAFF PRESENT: Melanie Zermer, Committee Administrator Carol Wilder, Committee Assistant Holly Blanchard, Transcriber

MEASURES CONSIDERED: LC Drafts - Introduction - WS HB 2515 - Naturopathic Physicians/Discrimination - PH HB 2565 - Physical Therapist Authorization - PH

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TAPE 34, SIDE A

008 CHAIR FORD: Calls the meeting to order at 1:32 p.m.

LC DRAFT INTRODUCTIONS:

032 CHAIR FORD: Committee bills will be introduced but not all of them may have to do with human resources and therefore may be assigned to their proper committees.

039 MELANIE ZERMER, COMMITTEE STAFF (EXHIBITS Q-BB): LC 2019 (EXHIBIT Q); LC 2728 (EXHIBIT R); LC 2868 (EXHIBIT S); LC 2888 (EXHIBIT T);

LC 2951 (EXHIBIT U); LC 3002 (EXHIBIT V); LC 3003 (EXHIBIT W); LC 3055 (EXHIBIT X); LC 3326 (EXHIBIT Y); LC 3349 (EXHIBIT Z); LC 3255 (A); LC 3256

(EXHIBIT BB).

082 MOTION: REPRESENTATIVE RIJKEN MOVES THE FOLLOWING LCS BE INTRODUCED AS COMMITTEE BILLS: LC 2019, LC 2728, LC 2868, LC 2888, LC 2951, LC 3002, LC 3003, LC 3055, LC 3326, LC 3349, LC 3255, AND LC 3256.

VOTE: THERE BEING NO OBJECTION, IT IS SO ORDERED.

HB 2515 - NATUROPATHIC PHYSICIANS - PUBLIC HEARING

Witnesses: Representative Sam Dominy, District 44 Dell Isham, Oregon Association of Naturopathic Physicians Aris Campbell, Naturopathic M.D. Jim Carlson, Oregon Medical Association Peggy Anet, League of Oregon Cities' Employee Benefits Services Trust Nan Dewey, Oregon Association of Health Underwriters Dr. Martin Milner, American Association of Naturopathic Physicians Bruce Bishop, Kaiser Permanente

100 REPRESENTATIVE SAM DOMINY, DISTRICT 44: Sponsor of HB 2515 and urges its passage. Becoming a naturopathic physician requires four years of college and is another alternative to conventional medicine. A lot of people want choices. Believe some medicines and chemicals in the market place today may be more harmful than some of the natural medicines.

131 DELL ISHAM, OREGON ASSOCIATION OF NATUROPATHIC PHYSICIANS: Submits and reads written testimony (EXHIBIT A) The purposes of the bill is to prevent government agencies from discriminating between licensed naturopathic physicians and other health care providers when professional services are required that are within the scope of practice of a naturopathic physician. Notes that naturopathic physicians are trained as general practitioners who use standard diagnostic procedures in assessing their patients' health needs. Patients with conditions that must be treated in a hospital setting or require treatment outside the legal scope of naturopathic medicine are referred to other practitioners such as medical doctors or others licensed in the State of Oregon. Discusses naturopathic methods of treatment available to patients.

Advises HB 2515 is similar to other types of legislation that address situations of discrimination. Nondiscriminatory language of this sort also appears in other parts of the statute. For example, there's reference to nondiscrimination among the various health care practitioners within the Health Services Commission law and the Workers' Compensation law. We believe those laws and this one are in the public interest. Notes HB 2515 is also cost-effective to the health care profession and to the public. Not our intent that HB 2515 be an insurance mandate and it should address government directly and not third party payers. To alleviate this concern, suggests a minor amendment to HB 2515 by adding the word "directly" on line 9 after the phrase "responsible for". Therefore, only decisions made directly by state government and municipalities would be covered by this bill.

252 REPRESENTATIVE STEIN: How does this fit in with the contract Medicaid has with HMOs or PPOs? Will this require a change in that practice?

254 ISHAM: We're trying to address the direct services of government, not those that would be insured. So, it would depend on the specific circumstance or type of coverage. The amendment is designed to specifically exclude group health care benefits, for example. But it may cover those directly related to a direct government payment.

260 REP. STEIN: Still isn't clear. Some research might be helpful to clarify what the effect is going to be.

270 ISHAM: Many governmental decisions are being made by people who are not professionally qualified to make the judgment upon the professional qualifications of those who are trained professionally. Naturopathics want to be allowed to work within their regulated scope of practice in accordance with their state license. This is not just discrimination to the naturopathics but also against the patients and general public. Urge passage of HB 2515 to improve access to health care, particularly that which would lower costs and end the unnecessary exclusion from the services of naturopathic physicians.

283 ARIS CAMPBELL, NATUROPATHIC M.D. (EXHIBIT B): Supports HB 2515 and believes it would improve cost-effectiveness of care for Oregonians and provide continuity of care. Naturopathic doctors are trained and licensed to be general family practitioners. Gives examples of patients who need medical care but the naturopathic physician cannot provide it because there is no code number for the service. This sort of discrimination is clearly not in the public's best interest.

333 REPRESENTATIVE MEEK: Addresses Representative Stein's concern. Cost of that kind of service would have been paid for had HB 2515 been law.

344 CAMPBELL: Right, I can't do some tests simply because there isn't a code number for it. I can begin treatment by giving an exam but I can't help my patient further because I can't do any tests. If I do the test, I have to pay for it out of pocket which I have done on some occasions. Discusses what is and isn't covered under government health insurance programs which can result in some patients paying for care out of pocket.

357 REP. MEEK: HB 2515 would allow you to perform the same services covered under health insurance as those performed by an M.D., O.D. or a chiropractor, right?

374 CAMPBELL: Yes, just so I could do enough tests to keep my patients safe.

375 REPRESENTATIVE BARNES: Are you authorized to prescribe various tests like blood tests, medicines, etc.?

384 CAMPBELL: I can prescribe any lab tests and drugs, if the chemical in the drug is natural or similar. There is a specific list of drugs that naturopaths can prescribe.

396 CHAIR FORD: What other things could you do under your licensing for AFS that would be covered for other practitioners?

409 CAMPBELL: Minor surgeries, for example.

411 FORD: How minor is that?

422 CAMPBELL: Can't penetrate the sascial layers; can take off moles and warts that involve surface surgeries. Office procedures most commonly done by general practitioners. Most of what a naturopath would provide is similar to what would be provided by a general practitioner and care would be determined by age group, what kind of health care the patient

requires. Different conditions have specific treatments as outlined by more traditional medicine. Naturopaths use those treatments but have other options that are not confined to the traditional scope of practice. Some of the treatment naturopaths do would save money for AFS because they address the causative agent.

TAPE 35, SIDE A

022 JIM CARLSON, OREGON MEDICAL ASSOCIATION: Believes language in HB 2515 is overly broad and would come under the inclusion of ORS 171.870-.880 which is the mandated coverage statute. This statute requires the filing of a report along with this legislation.

040 FORD: Where does it refer to that?

044 CARLSON: Refers to copy of ORS 171.870 concerning providers of health care. Refers to HB 251 5, line 8, beginning with "If the official, board, . . ." concerning mandated payments for certain providers of health care; believes this bill would do that.

052 FORD: Understands the statute was for insurers.

054 CARLSON: Refers to ORS 171.870 concerning mandated payments. Believes HB 2515 should have been accompanied by the appropriate report that is required under Oregon State Statute passed in 1985.

058 FORD: Directs that concern to Legislative Counsel.

059 CARLSON: The breath of the proposal is particularly imposing. The legislation would allow the Board of Naturopathy to determine whether their practitioners qualify. Notes the term "physician or physicians" occurs in the Oregon Revised Statutes 1,018 times so there's a potential of 1,018 areas in state statutes where this legislation could potentially have an impact. Believes the committee wants to take a careful look at how broad this legislation will be before it proceeds with more activity on the bill. Additionally, there are several federal requirements which direct particular services to be provided by medical doctors which this bill would attempt to override. Gives example of commercial drivers who must have physicals taken by medical doctors according to federal standards. Therefore, in some instances, there will be jurisdiction problems with the federal government as well. Services by naturopaths are allowed under federal Medicaid regulations as an optional service. The Oregon Medical Association (OMA) requests that the committee take no action on HB 2515.

100 MEEK: You never said whether you oppose HB 2515.

102 CAMPBELL: The OMA speaks in opposition to HB 2515 for the reasons stated.

104 PEGGY ANET, ADMINISTRATOR, LEAGUE OF OREGON CITIES' EMPLOYEE BENEFITS SERVICES TRUST (EXHIBIT C): Opposed to HB 2515 for many of the reasons expressed by the OMA. Reads from written testimony. Concerned that public employers would be obligated to pay for naturopathic services. Refers to HB 2515, Section 2, lines 5-7 which essentially says no official board, commission or other agency shall discriminate against a naturopath in the event that services can be provided by another type of professional in the event that those services are required. The operative problem in the language is that there's absolutely no qualification as to when such services are required.

147 MEEK: You feel the language steps out of bounds of an insurance trust to the point that it would obligate that health services be paid for an employee?

151 ANET: Yes. It comes under the guise of an insurance mandate.

167 MEEK: How does this bill differ from what exists today between a chiropractor, a naturopath, or even a M.D.? Do you feel this bill goes beyond what their current bounds are?

177 ANET: Refers to HB 2515, Section 2, line 8, that reads, "when such services are required." There's no reference to medical necessity, within contract benefits--there's no qualification to the language at all. Might be appropriate for a study to be done in conformity with statutory requirements pertaining to mandated benefits to accompany HB 2515.

202 NAN DEWEY, OREGON ASSOCIATION OF HEALTH UNDERWRITERS (EXHIBIT D): Agrees with concerns of the OMA and those mentioned by Peggy Anet. Also feels HB 2515 is the start of an insurance mandate. Refers to written testimony and SB 321 concerning mandates.

239 MARTIN MILNER, NATUROPATHIC PHYSICIAN, AMERICAN ASSOCIATION OF NATUROPATHIC PHYSICIANS (EXHIBIT E): Favors HB 2515. Concerning how HB 251 5 would affect PPOs and HMOs, SB 27 was the Health Service Commission legislation which has a section that includes nondiscrimination. Also, the new Workers' Compensation legislation includes a clause of nondiscrimination although the definition of health care providers excludes naturopathic physicians. Thinks that's an important point because it says there's a priority legislatively to nondiscriminate between and among providers. Understands the workers' comp delivery they're having to include naturopathic physicians which means we will have to be represented as an alternative provider in PPOs and HMOs. Whenever we are involved in representation in insurance delivery systems, our affect has been to reduce health care costs--not to increase them. We are stating very clearly that our legislative intent is for this not to affect insurance reimbursement to third party carriers. Thinks it will be extraordinarily minimal where public sector involvement may cross over into governmental agency. Doesn't seem reasonable to throw the bill out on that premise.

307 FORD: Does have concerns about state political subdivisions, municipalities, public bodies that pay for employees' medical benefits through insurance plans. Since they are going to PPOs and HMOs, how could they do what you're asking them to do without this being considered a mandate?

324 MILNER: By adding the clause, "direct paying for such services."

325 FORD: Where do they direct payment anymore?

326 MILNER: That's the point, they don't. That's why there's no implication for insurance reimbursement.

336 FORD: Then what's the purpose of the bill?

340 MILNER: Nondiscrimination as opposed to insurance reimbursement mandating. Nondiscrimination of scope of practice--not insurance delivery or reimbursement. Refers to HB 251 5, Section 2, line 9, and

suggests the word "direct" be inserted before the word "paying".

355 FORD: If they have an insurance policy in one group and you're not asking that you be paid under the policy, you're asking to be paid outside the policy?

357 MILNER: If the board or commission direct pays, for example with Medicaid, we would have to be nondiscriminated against. This would require that Medicaid reimburse us equally to medical doctors. Speak in favor of HB 2515 and believes it is in the best interests of Oregonians as well as the State of Oregon. Notes fiscal impact statement, EXHIBIT E, Page 3 which compares equivalent procedures performed by naturopathic physicians with the same procedures performed by medical doctors. The current reimbursement to naturopathic physicians was calculated as 79.78 percent of medical doctors. For the same services, naturopathic physicians have been reimbursed at a rate 20 percent less than medical doctors. Also notes Page 4 that calculates general cost-effectiveness of naturopathic services over the last four years in medicaid delivery in Oregon. The statistics show that the average cost per patient per year as well as the amount of money paid to providers is presently and will remain far less for naturopathic services than medical doctor services. The insurance companies would be saving money by including us.

TAPE 34, SIDE B

046 MEEK: Appreciates comments but thinks the mandate issue should be approached straight ahead.

048 REPRESENTATIVE STEIN: As you pointed out, SB 27 indicated nondiscrimination. Support what you're saying but don't think HB 2515 does what you're saying.

057 FORD: This is further complicated by more questions that need to be addressed.

063 BRUCE BISHOP, KEIZER PERMANENTE: Our principle concern deals with what the word "discrimination" means as used in HB 2515. We're familiar with the use of the term in SB 27 and in the Workers' Compensation Reform during the special session. 080 HB 2565 - PHYSICAL THERAPIST - PUBLIC HEARING

Witnesses: Heidi Bailkowsky, Oregon Physical Therapists Association Jim Carlson, Oregon Medical Association Nancy Maloney, M.D. Daniel Jones, Oregon Physical Therapy Association Daiva Banaitis, School of Physical Therapy, Pacific University Chuck Bennett, Oregon Chiropractic Physicians Association Carol Schunk, Physical Therapist and Psychologist Nancy Cicirello, Physical Therapist Faculty, Pacific University Peggy Anet, league of Oregon Cities' Employee Benefit Services Trust Clem Eischen, Physical therapist Harry Porter, Citizen Stephen Kafoury, Oregon Physical Therapy Association

093 HEIDI BIALKOWSKY, OREGON PHYSICAL THERAPISTS ASSOCIATION (EXHIBIT F): We support HB 2565 which would allow licensed physical therapists to treat patients without referral. Oregon law currently requires physical therapists to get a referral from a doctor, podiatrist or dentist.

124 JIM CARLSON, OREGON MEDICAL ASSOCIATION (OMA): Opposed to HB 2565.

This issue has been introduced every legislative session for at least the last 10 years. Primary reason for opposition is that this is not in the best interests of patient care. Physical therapy is a form of treatment and physical therapists are not trained to be a primary care physician--someone who performs a differential diagnosis and prescribes treatment. Medical problems can manifest themselves in many and unusual ways, some that are difficult to diagnose even for the most highly trained specialist. Hopes the committee will ask: --Is HB 2565 in the best interests of patient care? --Can physical therapists diagnose complicated medical conditions? --Do physical therapists have the ability to order important diagnostic tests such as X-rays and laboratory tests? --Do physical therapists know how to interpret X-rays and laboratory test results? --Are there currently Oregonians who are being denied access to necessary and appropriate physical therapy services in this state because of physicians or other medical providers authorized to do so refusing to make referrals?

In the opinion of the OMA, the answer to all of these questions is "No." Notes that primary care physicians tend to be the gatekeepers in today's health care system. They manage the health care of patients and refer them onto appropriate and necessary treatment and services such as specialty care and physical therapy services. Legislative efforts in the medicaid and Workers' Compensation systems have been to move the provision that the state cares for into these types of systems. HB 2565 appears to move in the exact opposite direction, allowing more direct entry points into the health care system and diffusing legislative efforts. Could run into a cost problem if HB 2565 was enacted because patients could be advised to have physical therapy when a physician might take a more prudent initial approach. Urges no action be taken on HB 2565.

222 MEEK: Have we arbitrarily through the so-called gatekeeper system defined who's in that system?

243 CARLSON: Was referring to managed care types of settings such as medicaid and the Workers' Comp. program. No providers have to participate in any of these managed health care systems if they chose not to. In some instances, such as injured workers under the Workers' Compensation legislation, they won't have an option. Reiterates move in the health care industry to move toward managed health care systems. Doesn't know of any case where a person has been denied access to physical therapy treatment.

293 REPRESENTATIVE BARNES: Does current law permit licensed physical therapists to be part of a managed health care system?

295 CARLSON: Without a doubt, physical therapy services are an intricate part of any managed care system. Under Workers' Compensation where a great deal of physical therapy services are provided, it's an essential component of any managed care system. Kaiser Permanente, probably the state's largest managed care provider, employs a large number of physical therapists.

308 FORD: Wants list of questions to be provided to committee staff. Also, when did this bill have it's last hearing?

320 CARLSON: It had a hearing in the 1989 session and I appeared and gave testimony at that time, as did Dr. Maloney and several other witnesses here today.

326 REPRESENTATIVE RIJKEN: Think there will be a lot of time spent on one issue--diagnosis. When exactly is diagnosis made? Also want clarification on "necessary and appropriate care."

340 CARLSON: Defers first question to Dr. Maloney. Concerning second question, one of the things being addressed in cost containment efforts is not paying for and having inappropriate and unnecessary care provided. The concept of gatekeepers in the health care system is to have patient care managed through a system where only necessary and appropriate care is provided.

TAPE 35, SIDE B

021 NANCY MALONEY, M.D.: Prior to becoming a medical doctor, I worked for several years as a physical therapist at the University of Minnesota Hospital and Clinics. I am the Medical Director of the St. Charles Medical Center Rehabilitation Services in Bend, Oregon where my patients refer to me as the physical therapy doctor because I'm well-versed in physical therapy techniques and often prescribe them. Feel there's a critical difference between physical therapy evaluation and physician or medical evaluation. Notes medical doctors must get a complete medical history of the patient and evaluate the situation for proper diagnosis and treatment. This might also include consulting with specialists in other specialties. All this requires that the medical doctor keep up to date in testing, interpretation, laboratory results, updated surgical procedures and medical disease affects of trauma. Also, medical doctors must have a good awareness of how organ system interrelate among the body and an important perspective on which symptoms and complaints need urgent medical treatment, timely evaluation and proper treatment. Inappropriate delay of needed treatment may cause serious complications.

The most qualified physical therapist, I contend, has not been adequately trained in general medical management and organ system evaluation to make this important distinction. Doesn't feel that a physical therapist has adequate medical training, history-taking to analyze all organ systems, physical examination techniques to analyze all organ systems, access to medical colleagues, charts, laboratory data, test results, etc. to make the proper medical diagnosis. Praises physical therapists for their knowledge and expertise in their professional field but thinks their scope is narrow. Physical therapy training is not M.D. training--it's that simple. Not all physical therapists feel comfortable with the open-ended language of HB 2565. Physical therapists are trained to provide a specific service and in general, I think they do it exceptionally well.

147 REPRESENTATIVE HAYDEN: Talks about a doctor who could describe a person's medical condition by observing the person's body movements.

159 STEIN: The public currently has access to a number of other types of practitioners directly such as occupational therapists, speech therapists, nurse practitioners, and massage technicians. Troubled that people can go to those practitioners and not to physical therapists. Why is that, what's the difference?

160 MALONEY: There's some overlapping of some of the services mentioned. For example, a massage therapist and a physical therapist may provide massage techniques for therapeutic purposes. Physical therapists tend to use their techniques in a somewhat more vigorous or invasive manner. Because of that, the risk of harm to the patient is higher using those modalities than a speech therapist who addresses language comprehension, articulation skill--there's less application of



equipment.

182 BARNES: When you prescribe physical therapy for a patient, do you then declare when the patient is well and able to function properly, or do you leave that to the physical therapist?

187 MALONEY: Traditionally, I will see a patient in my clinic, develop a treatment plan, and then prescribe physical therapy on a prescription pad. The patient takes that prescription to the physical therapist which outlines frequency, duration, total number of sessions, and type of modalities and treatments recommended. Works with physical therapists who update me on progress of the prescribed therapy. Usually follow that patient back in several weeks depending on the type of injury.

207 MEEK: You don't view this as some type of authoritarian or power control to the gatekeeper?

208 MALONEY: In that example, I'm not holding a lot of straws because I'm not providing intensive treatment for that patient. I'm doing an evaluation and follow up as needed. I'm most concerned about the safety issues and providing the most comprehensive treatment, and as a physician I feel I have the best measure and means to do that.

214 FORD: You have a very special specialty. How many specialists in physiatry are there in Oregon?

224 MALONEY: About 35 in Oregon.

233 FORD: Do you think physical therapists who are not comfortable with this legislation would go ahead and treat and not refer the patient to a medical doctor?

241 MALONEY: It varies upon the personality traits and confidence level and training of the individual. Certain there would be a number of physical therapists who would be uncomfortable and suggest a M.D. Others might try treatment and if it doesn't go well, then refer the patient to a M.D.

243 FORD: Ever known doctors who make misdiagnosis even with their education, history and careful examinations?

250 MALONEY: Yes, thinks there's variety and diverse opinions among physicians on how to best manage simple issues like a low back strain. Still think the physician is the best position for the quarterback but agrees there's variability.

260 FORD: What percent of the patients you see are referred to physical therapists?

261 MALONEY: About 50 to 60 percent who have seen a primary care physician and then go to a specialist for physical therapy. I refer about 60 to 70 percent of my patients with chronic pain or disability to physical therapists.

266 FORD: Then you send them back to physical therapy with a different regiment than the first doctor?

267 MALONEY: I review the physical therapy that's taken place and then find the best combination of treatment which may include some change in

physical therapy program.

270 CARLSON: Will provide the number of physiatrists who are covered under the PPO and HMO plans.

273 BARNES: Where do chiropractors fit into the scheme of things?

283 MALONEY: That question doesn't relate to HB 2565 and is a different issue for me. I use physical therapy services almost exclusively. The percentage of time that I use chiropractic is less than 5 percent because of what I perceive to be a difference in delivery, treatment options and variety.

289 BARNES: What is the difference in training between a physical therapist and a chiropractor?

293 CARLSON: Representatives from the chiropractic profession can respond.

300 RIJKEN: When exactly does a diagnosis start?

320 MALONEY: I make the diagnosis after I've completed history which addresses signs and symptoms, physical examination and completion of evaluative tests--laboratory, X-rays, or whatever. I might be able to make a diagnosis on the first visit or it might require more information from other tests.

333 RIJKEN: See this as a consumer bill because of direct access as a way of getting timely, correct help that's needed. Discusses personal experience where going to a doctor was a deterrent to getting other treatment. Can argue those kinds of cases on both sides. Think a lot of people could be treated by going directly to a physical therapist which would save them money. Talks about frustrations of required referrals in order to receive alternative care. Why should we direct a patient to a M.D. as opposed to some other alternative care?

387 MALONEY: The open-ended nature of HB 2565 concerns me in providing direct access of customers to physical therapists just because of the scope of their practice. That concerns me. Delaying getting referrals and PT orders going is a legitimate concern. Physicians need to be aware of that and take responsibility for creating changes.

TAPE 36, SIDE A

035 DAN JONES, LICENSED PHYSICAL THERAPIST, LEGISLATIVE REPRESENTATIVE, OREGON PHYSICAL THERAPY ASSOCIATION (EXHIBIT G): Favors HB 2565 and gives history of physical therapist profession and their importance in treatment. Lists medical professionals whom people can seek without a referral and yet a physical therapist must have a referral before a patient can be seen. Discusses diagnosis which can differ. For physical therapists, diagnosis is a term of the primary dysfunction towards which physical therapy directs the treatment. The dysfunction is identified by the physical therapist and is based on information obtained from the history, signs and symptoms, examination and testing that the physical therapist performs or requests. We do not make a medical diagnosis but with history, tests, signs and symptoms, we are the first to refer the patient to an appropriate medical practitioner if there appears to be a problem outside the scope of physical therapy. Believe direct access will result in cost savings to the state. Notes

there's a much higher referral rate of physical therapists to physicians.

124STEIN: Refers to EXHIBIT G, Page 3 that mentions 16 states have some limited form of direct public access. What does it mean by the word "limited"?

127 JONES: Twenty-four states have direct access which means the patient can be evaluated and treated. In 16 states, the patient can be evaluated but not treated. That's what the word "limited" means.

134 FORD: Thought diagnosis was the whole issue. Why would the physical therapist do diagnosis in 16 states and then refer to a doctor?

139 JONES: Limited access means that in those 16 states, the patient can go see the physical therapist first who would do an evaluation. Then, before anything else takes place, the patient has to go to a physician.

150 RIJKEN: Hears from patients who've been in other states where they can have direct access to a physical therapist but three weeks later they must return to the M.D. for a checkup?

154 JONES: That's correct. There are some states that do have a limitation on the length of time--30 days, for example. Each state law can vary on direct access.

159 DAIVA BANAITIS, PHD, DIRECTOR, SCHOOL OF PHYSICAL THERAPY, PACIFIC UNIVERSITY (EXHIBIT H): Reads written testimony and supports HB 2565. Emphasizes that physical therapists do not make diagnosis but do their jobs well and to the benefit of their patients. Discusses educational requirements to become a physical therapist which lasts six to seven years. We emphasize the evaluation and treatment of physical dysfunction not the diagnosis and treatment of disease. Notes that in Minnesota they found there was a decrease in costs if the patient went directly to the physical therapist. We just conducted a study in Oregon which indicates physical therapists receive 22 new referrals per month which would be quite a savings over a year if those patients could go directly to them. Advises that only 22 percent of physical therapists in Oregon work in hospitals, the rest are in private practice, out patient clinics, and home health where they have to deal with other groups of physicians.

304 MEEK: Notes that Pacific University's College of Arts and Sciences was in U.S. News and World Report as one of the top 10 colleges.

321 REPRESENTATIVE TAYLOR: Want to know about the reciprocity of the licensing with other states?

325 BANAITIS: The licensing examination is a national examination given three times a year. There is reciprocity from a license first earned in Oregon in every state. Each state sets its own passing level. Oregon has the highest passing level of any state in the nation.

344 BARNES: Does a physical therapist hold the equivalent of a master's degree?

347 BANAITIS: In the State of Oregon, the graduates for the last five years do. The schools are now changing to where the master's degree is

the entry level degree.

350 BARNES: What about continuing education and relicensing, etc.?

352 BANAITIS: Oregon's present law does not require continuing education but that doesn't mean we don't do it. Continuing education goes on in Oregon and therapists do attend seminars, etc.

374 MEEK: What is the distinction between a nonlicensed physical therapist who has a B.A. in physical education, for example, and those in your profession?

390 BANAITIS: The exercise physiologist or trainer is available very often in sports type of athletic clubs. Individuals can approach them directly with their problems but we cannot help them without a referral from their physician.

TAPE 37, SIDE A

014 BARNES: There are some other states that do have direct access to physical therapists. Are we denying people access by our current law--do you have any statistics on that?

027 BANAITIS: Don't have any statistics but know from personal experiences that people will not go to the physician because it may take two weeks to see them and by then, a muscular problem may be worse or relieved. But with physical therapy we can often hasten the relief.

041 CHUCK BENNETT, OREGON CHIROPRACTIC PHYSICIANS ASSOCIATION (EXHIBIT I): Submits Dr. Bonnie McDowell's written testimony (EXHIBIT I) in opposition to HB 2565. Refers to ORS 171.870 and 171.880 concerning a series of questions that those seeking mandates must answer. Suggests the committee review objective evidence rather than anecdotal evidence.

098 RIJKEN: Haven't chiropractors found themselves in this same position in past years concerning direct access?

100 BENNETT: No, they haven't. It's a different situation that would be unfair to both professions to try to equate the two.

102 RIJKEN: Who are we to say who the public should see first?

120 BENNETT: There's the responsibility to protect the public health, safety and welfare when you take your oath of office. You'll see this as practitioners seek economic advantage. As the consumer becomes the economic instrument of that advantage, you become the people who have to deal with it. Suggests this could be put into SB 381 and allow the Health Services Commission to take on what is its prescribed responsibility.

150 CAROL SCHUNK, PHYSICAL THERAPIST AND PSYCHOLOGIST: Operates a Rehab agency in Portland and employs 8 people who do occupational therapy service and can practice without a referral. Also, three speech therapy people who practice without a referral and 12 physical therapists who must have a referral to practice. We provide contract service to 41 long-term care facilities. These are older patients who require a call for a referral. Gives examples of denied reimbursement by Medicare. Thinks there's an aspect of denied access due to lack of direct access to physical therapists.

249 NANCY CICIRELLO, PHYSICAL THERAPIST AND FACULTY, PACIFIC UNIVERSITY (EXHIBIT J): Addressing pediatric therapists of which a large majority practice in the public school systems. Services provided there must comply with federal law PL 94-142. Reads from written testimony, EXHIBIT J. Notes that the physical therapist is the only team member whose practice requires a physician's order to provide services (evaluation and treatment). This can cause delays in treatment. Support passage of HB 2565.

347 FORD: Do you have extra educational times and courses you must attend for your area of expertise?

349 SCHUNK: At this time, in physical therapy, it's done through continuing education courses. There are provisions now for therapists to become certified clinical specialists in different areas.

352 FORD: How much further education do you need for that?

353 SCHUNK: In geriatrics it requires five years of experience in geriatrics, conduct research and administrative proposals and pass an examination.

370 PEGGY ANET, LEAGUE OF OREGON CITIES EMPLOYEE BENEFIT SERVICES TRUST: Raises issue about the consequences of HB 2565. The assumption is that if the bill were enacted, that would provide for direct access to a physical therapist and that those benefits would therefore be reimbursable under an insurance contract. That's not necessarily the case. In our case, we require a medical diagnosis as a precondition for reimbursement for the claims paid under our health insurance contracts. There's nothing in HB 2565 that expands the scope of authority for a physical therapist to include diagnostic techniques as is required under our health insurance plans for reimbursement. Need to bear in mind that even if HB 2565 does pass, it would still appear to be discretionary from the standpoint of the way insurance contracts are written as to whether or not these claims would be payable.

TAPE 38, SIDE A

006 CLEM EISCHEN, PHYSICAL THERAPIST (EXHIBIT K): Works as a physical therapist with high school athletes both in treatment of sports injuries and in injury prevention. Reads written testimony, EXHIBIT K, and notes that persons with much less training can legally perform injury care yet a physical therapist cannot due to law restrictions. Feels the requirement for a physician referral is not necessary considering the training of licensed physical therapists.

030 HARRY PORTER, CITIZEN: Have been provided physical therapy care and as a consumer, I feel direct access should be allowed to people in Oregon. Feels physical therapists will take a conservative stance rather than an aggressive one with treatment. Mentions the amount of time involved going through the delivery system via the physician. From a consumer standpoint, thinks this procedural requirement adds cost to the system.

080 STEPHEN KAFOURY, OREGON PHYSICAL THERAPY ASSOCIATION (EXHIBIT L): We have never asked to have physical therapy a mandated insurance service. HB 2565 has nothing to do with insurance mandates--we don't want any insurance mandates. We think we can take care of that by individually negotiating with insurance companies. That's what we've done in the past and what we plan to do. Fascinated by today's discussion and one issue

being how irrelevant the issue of diagnosis is. It's an enormous red herring and has nothing to do with this issue. We do not want to be primary care physicians, that's not our role. We want to take care of the children in grade schools and older people in the nursing homes, the weekend athlete, etc. Reads letter from Blue Cross/Blue Shield in Arizona that concerns a report that direct access to physical therapy services has not resulted in increased insurance costs. The same applies to Blue Cross/Blue Shield of Maryland (EXHIBIT N), and in other applicable states (EXHIBIT M). There haven't been any problems in states that have direct access. Reads EXHIBIT O from Peter M. McGough, M.D., Sisters of Providence Hospital, Co-Chair, Legislative and Governmental Affairs, Washington Academy of Family Physicians in Washington which indicates there has been no adverse outcome or major problems associated with direct access to physical therapy since it went into effect in 1988.

233 TAYLOR: Is it possible for a physician to give a blanket referral for a whole athletic class?

240 KAFOURY: It is possible to have a direct phone referral but that's not to say it's always available.

250 HAYDEN: Can you deliver on the pledge not to want primary care responsibilities or insurance mandates in future years?

263 KAFOURY: Yes, because the direction of physical therapy doesn't include expansion. We're not trying to do new things like how to treat cancer or interpret X-rays. Training is going further into the same line. In terms of the insurance mandate, I don't think that's going to be necessary because they reimburse us now on referrals.

280 HAYDEN: Do we know that if direct access were allowed, that nursing home patients would get more care?

304 SCHUNK: When we contract with a nursing home, we contract to provide service for whoever needs it.

342 HAYDEN: Are you advocating that people with aggregate debilitating diseases, some very complex, be treated without reference to or referral by a physician, on an ad hoc, free will basis?

346 SCHUNK: In complicated or complex cases, the physician would be called in.

348 HAYDEN: So, it would be reversed whereby the physical therapist would then refer the patient to a M.D.?

350 SCHUNK: Yes.

352 CHAIR FORD: Adjourns the public hearing at 4:50 p.m.

Submitted by,            Reviewed by,

Holly Blanchard        Melanie Zermer Transcriber Committee Administrator

EXHIBIT LOG:

A - Written testimony, Dell Isham, Oregon Assoc. of Naturopathic Physicians, 3 pages B - Written testimony, Dr. Aris Campbell, Naturopathic Medicine, 1 page C - Written testimony, Peggy Anet, Oregon Cities' Employee Benefits Services Trust, 2 page D - Written testimony, Nan Dewey, Oregon Association of Health Underwriters, 4 pages E - Written testimony, Dr. Martin Miler, American Association of Naturopathic Physicians, 4 pages F - Written testimony, Heidi Bialkowsky, Oregon Physical Therapists Association, 4 pages G - Written testimony, Daniel Jones, Physical Therapist, 3 pages H - Written testimony, Daiva Banaitis, School of Physical Therapy at Pacific University, 14 pages I - Written testimony, Bonnie McDowell, Physical Therapist and Chiropractor, 5 pages J - Written testimony, Nancy Cicirello, Pediatric Physical Therapist, 3 pages K - Written testimony, Clem Eischen, Physical Therapist, 2 pages L - Written testimony, Donald Lang (presented by Stephen Kafoury), 1 page M - Written testimony, Darlene Koperski (presented by Stephen Kafoury), 1 page N - Written testimony, Michael Yuhas (presented by Stephen Kafoury), 1 page O - Written testimony, Peter McGough, M.D. (presented by Stephen Kafoury), 2 pages P - HB 2565 (Preliminary Staff Measure Summary), 1 page Q - Draft, LC 2019, 10 pages R - Draft, LC 2728, 1 page S - Draft, LC 2868, 3 pages T - Draft, LC 2888, 10 pages U - Draft, LC 2951, 1 page V - Draft, LC 3002, 2 pages W - Draft, LC 3003, 1 page X - Draft, LC 3055, 8 pages Y - Draft, LC 3326, 3 pages Z - Draft, LC 3349, 5 pages AA - Draft, LC 3255, 6 pages BB - Draft, LC 3256, 1 page CC - HB 2515 (Preliminary Staff Measure Summary), 1 page